IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Bail Appl..No. 6457 of 2007

(CRIME NO. 653/2007 OF VADAKKEKARA POLICE STATION)

PETITIONERS

1. SHAMLAL, S/O.SHANMUGHAN,
AGED 22 YEARS, ODIKKAPARAMBIL HOUSE,
KUNJITHAI, VADAKKEKARA, N.PARUR.

2. SHAN, S/O.SHANMUGHAN,
AGED 20 YEARS, ODIKKAPARAMBIL HOUSE,
KUNJITHAI, VADAKKEKARA, N.PARUR.

BY ADV. SRI.K.A.SREEJITH
SRI.N.R.SANTHOSH

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, VADAKKEKARA POLICE
STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/10/2007 ALONG WITH B.A NO. 6475/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.Nos. 6457 &
6475 of 2007

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Dated this the 24th day of October, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1, 2 and 4 in a crime registered, inter alia, under Section 307 IPC. The accused persons four in number were allegedly proceeding in search of some other accused in a Section 308,IPC case. They were armed with dangerous weapons like swords, sticks and iron rods. The injured persons – two in number- father and son were standing by the side of the road. It was then that the petitioners committed offences against the victims. They suffered grievous injuries. According to them there was an attempt to cause their death. Serious injuries were suffered. Crime has been registered. Accused 1 and 2 have been named in the FIR. The other accused have subsequently been arrayed in the party array. Investigation is in progress. The petitioners face allegations under Sec.307 IPC. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There was some communal tension in the locality. False allegations are being raised on account of such animosity. The petitioners may in these circumstances be

granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the available indications do point to the wanton culpable acts on the part of the petitioners. There are absolutely no reasons to assume that the allegations against the petitioners are false and are raised only because of animosity. The learned Public Prosecutor has read over the wound certificate to me, where, the injuries suffered by the injured persons are described.

4. Having considered all the relevant inputs, I do not find any features which would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioners must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj